



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,441	10/29/2003	Perry N. Law	P67936US0	4583
136	7590	12/12/2005	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			NASSER, ROBERT L	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

88

Office Action Summary	Application No.	Applicant(s)	
	10/695,441	LAW ET AL.	
	Examiner	Art Unit	
	Robert L. Nasser	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-13 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 3,4,6,12,13 and 16 is/are allowed.
- 6) ☒ Claim(s) 5,7-11 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The examiner regrets that upon further search, art was found that was pertinent to claim 19. Accordingly, claim 19 and the dependent claims therefrom are being rejected in this non-final office action.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7-11, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itonaga et al 5807266 in view of Sacks 4202347. Itonaga shows a blood pressure measuring cuff including an outer rigid casing 12 and a bladder therein 2, with a plurality of emitters and detectors 10 located therein and attached to the inner surface of the bladder. The bladder is black (see column 6, line 41) to minimize interference and light piping. The bladder is not formed between a flexible sheet and the rigid casing. Sacks teaches an alternate method of forming the bladder, where the bladder is formed by attaching a flexible membrane to the rigid casing. As such, it would have been obvious to modify Itonaga to use such a bladder, as it is merely the substitution of one known bladder for another. Claim 5 is rejected in that the bladder is inflatable and hence has the port. With respect to claims 7 and 8, the limitations as to the intended size of the finger to be used is an intended use limitation. The device of the combination is capable of being used in the manner recited. In other words, the "intended" finger size is unknown and therefore, the cuff meets the claim limitation,

Art Unit: 3736

depending on the size of the finger. With respect to claims 9-11, Itonaga teaches making the bladder from rubber. With respect to claims 9 and 11, judging by the nature of use of Itonaga, it is the examiner's position that it would necessarily have to meet the limitations claims 9 (expansion size) and 11 (thickness) in order to perform as described. Alternatively, the exact thickness of the device would have been an obvious matter of design choice for one skilled in the art.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itonaga et al in view of Sacks as applied to claims 14 and 15 above, and further in view of Ukawa 5676140. Ukawa et al further teaches the use of a plurality of light sources (5a, 5b, 5c) aligned linearly along the longitudinal axis of the cuff. As such, it would have been obvious to modify the above combination to use such an arrangement of sources, as it is merely the substitution of one known source for another.

Claims 3, 4, 6, 12, 13, and 16 are allowable.

Claims 3 and 4 define over the art in that none of the art shows the ends having a greater thickness than the middle, as claimed. Since applicant has described this as part of a scheme to have the cuff evacuate uniformly and prevent bunching of the cuff during measurements, it is the examiner's position that the feature is more than mere design choice.

Claims 6, 12, and 13 define over the art in that none of the art teaches the two stiffening ribs on the inner surface of the bladder, as claimed.

Claim 16 define over the art in that none of the art as the rib with the light source and detector therein, as claimed

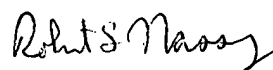
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is (571) 272-4731. The examiner can normally be reached on Mon-Fri, variable hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert L. Nasser
Primary Examiner
Art Unit 3736

RLN
November 30, 2005



ROBERT L. NASSER
PRIMARY EXAMINER